

OCT 25 2019

CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ Deputy *D.A.*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

MICHELLE RENEE WHITMAN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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2:19-CV-172-Z

**ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS  
AND  
DISMISSING MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE**

On September 27, 2019, the United States Magistrate Judge entered findings and conclusions on Petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence. The Magistrate Judge RECOMMENDS that the motion be DISMISSED. No objections to the findings, conclusions, and recommendation have been filed. After making an independent review of the pleadings, files, and records in this case and the findings, conclusions, and recommendation of the Magistrate Judge, the Court concludes that the findings and conclusions are correct. It is therefore ORDERED that the findings, conclusions, and recommendation of the Magistrate Judge are ADOPTED and that the Motion to Vacate, Set Aside or Correct Sentence is DISMISSED.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2255 Proceedings in the United States District Courts, and 28 U.S.C. § 2253(c), the Court denies a certificate of appealability because Petitioner has failed to make "a substantial showing of the denial of a constitutional right." *Slack v.*

*McDaniel*, 529 U.S. 473, 483 (2000). The Court ADOPTS and incorporates by reference the Magistrate Judge's findings, conclusions, and recommendation filed in this case in support of its finding that Petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Id.* at 484.

If Petitioner files a notice of appeal, she may proceed *in forma pauperis* on appeal. See Federal Rule of Appellate Procedure 24(a)(3).

SIGNED October 25, 2019.

  
MATTHEW J. KACSMARYK  
UNITED STATES DISTRICT JUDGE